IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

OP.No. 24332 of 1999(V)

PETITIONER:

K.P. SAIDALAVI,
MANAGER, A.M.L.P SCHOOL,
TRIKKULAM, P.O. TIRURANGADI,
MALAPPURAM DIST.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. **THE STATE OF KERALA,**
REP. BY THE SECRETARY TO GOVT.,
GENERAL EDUCATION (B) DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM.

2. **THE DIRECTOR OF PUBLIC INSTRUCTIONS,**
TRIVANDRUM.

3. **THE DIST. EDUCATIONAL OFFICER, TIRURANGADI,**
MALAPPURAM DIST.

4. **THE ASST. EDUCATIONAL OFFICER,**
PARAPPANANGADI, MALAPPURAM DIST.

5. **M. KRISHNAKUMAR, LPSA,**
A.M.L.P SCHOOL, TRIKKULAM,
TIRURANGADI P.O., MALAPPURAM DIST.

BY ADV. SRI.AVM.SALAHUDEEN --- R5
GOVERNMENT PLEADER SMT. N.SUDHADEVI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 40805/1999 IN OP NO. 24332/1999.

DISMISSED

13/08/2007. SD/- T.R.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PROCEEDINGS OF THE PETITIONER DT. 28/8/89.

EXT.P2. COPY OF THE PROCEEDINGS OF THE R4 DT. 8/9/89.

EXT.P3. COPY OF THE ENQUIRY REPORT HELD ON 14/12/89.

EXT.P4. COPY OF THE COVERING LETTER NO. P. 5294/89 DT. 9/1/90 OF THE R4.

EXT.P5. COPY OF THE PROCEEDINGS OF THE PETITIONER DT. 13/3/90.

EXT.P6. COPY OF THE ORDER NO. L. DIS 12529/89/B4/ DT. 22/3/91.

EXT.P7. COPY OF THE ORDER DT. 24/7/99 BY THE R1.

RESPONDENT'S EXHIBITS NIL.

True copy

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T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 24332 of 1999-V.

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Dated this the 13th day of August, 2007.

J U D G M E N T

This writ petition is filed challenging Ext.P7 order passed by the Government in a petition filed under Rule 92 of Chapter XIV-A of KER. The revision petition filed by the 5th respondent herein challenging the order dated 22.3.1991 issued by the DEO is produced as Ext.P6. As per the above order of the DEO punishment of withholding of one increment for one year with cumulative effect was imposed against the 5th respondent.

2. A reading of Ext.P7 order shows that the Government has not considered anything on the merits of the matter and the only finding is that punishment awarded to one Sri.Moosakutty who was the co-accused in the incident was set aside as per G.O.(Rt.)No.1863/96/GE dated 30.3.1996. The learned counsel for the petitioner submits that the Manager was a party to the revision and he was not heard by the Government before passing order on the revision petition.

3. The learned counsel for the petitioner relied upon the decision of this Court in *K.P.Narayana Menon v. State of Kerala* [1974 KLT 714 (FB)], *Kunjukunju v. State of Kerala* (1981 KLT 62) and *Rajagopalan v. Manager* (1986 KLT 857) in support of the power of the management to take

disciplinary action. The learned counsel for the 5th respondent brought to my notice the decision of this Court in W.A.No.3067/2000 in relation to the disciplinary proceedings taken against one teacher Sri.C.M.Moosakutty. It was submitted that in that case while considering the request of the 5th respondent this Court was pleased to direct the Manager to reconsider the case afresh. In this case, as the matter was not decided by the Government on merits Ext.P7 is liable to be quashed. It is is not a reasoned order at all. Further the Manager was not heard also. The 5th respondent is free to urge all contentions based on the judgment in WA.No.3067/2004 also before the Government.

4. Therefore, Ext.P7 is quashed. The Government is directed to rehear the revision petition with notice to the present Manager and the 5th respondent and other authorities who are entitled to be heard, and dispose of the same on merits within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-